

REMARKS**I. Status of the Claims:**

Claims 26-31 and 50-75 are currently pending in the application. By this Amendment, claims 26-31 and 50 have been amended. Upon entry of this Amendment, claims 26-31 and 50-75 would be pending. No new matter has been introduced by this Amendment. Thus, entry and consideration of this Amendment are respectfully requested.

II. Rejections Under 35 U.S.C. §103:

Claims 26-31 and 50-75 are rejected under 35 U.S.C. §103 as being unpatentable over Slik et al. (USP 5,809,145) in view of either Grundy (USP 5,291,598) or Richardson (USP 5,490,216).

Claim 26 is directed to a system for the distribution of digitized information on demand. The system includes (a) a local mass store for storing the digitized information; (b) a point of sale unit for software products including electronically-readable media carrying said digitized information, said point of sale unit being arranged to receive a request from a customer for a said software product, wherein said electronically-readable media contains customer-selected information, and to issue a product release request; (c) a remote licensing control centre arranged in response to the product release request to issue a unique release code electronically; and (d) a local media generator arranged to store on the electronically-readable media the customer-selected information and the issued release code for supply to the customer.

Such an arrangement allows, for example, a retailer to produce and package software products locally according to demand, rather than being reliant on ordering quantities of stock from the distributor. Hence, the mass storage of complete products in the retail store; a point of sale unit operated by retail staff for software products including electronically readable

media containing customer selected information; and a local media generator for storing customer selected information on such electronically readable media are all significant characteristic features of claim 26.

An exemplary operational embodiment is described now for the Examiner's reference. For instance, a customer/client first makes a product selection. For this purpose, the customer/client uses either printed information (a gazette) or an electronic representative library (usually in the retail store but also possibly via the internet). The product selected is the complete product, not a subset of any greater dataset, and the manufacturing process is not under customer/client control. Rather the complete product is available at the retail outlet, where an authorisation process is in place for the person (retail staff member) operating the point of sale. Such authorisation involves the supply of a release code provided locally to the point of manufacture (media generator), following which the customer/client is provided with a physical product (the media), which represents the complete product. The release code is not intended for licensing the use of the product. The "release code for supply to the customer" as claimed in the present invention is not a code to use the product but a code to release the product so that it can be supplied to the customer. In other words, the product cannot be manufactured/produced until that code is supplied. This measure is designed to prevent the situation where the manufacturing process might be abused by the mere copying of the product from storage to media without an audited transaction taking place. Finally, the release code used to manufacture the product is stored as part of the non-executable data of the product. This is not for product use/enableness but as forensic evidence of where/when the media was manufactured.

By contrast, Slik et al is concerned with one of the conventional distribution arrangements discussed in the introduction of the present application, in which the customer is

able to download software directly onto a local hard drive by way of a modem and a communications network, such as the Internet. In the system of Slik et al, customers can browse and search datasets stored at various sites, including for example a portable memory device 18 in a fulfilment centre 14 or a local CD Rom drive 20, a relational database server 28, a website server 30 or the Internet 32. When they have selected a dataset, they can download it directly to the hard drive 15 of their computer 12 by contacting the fulfilment centre 14 to obtain a release code.

Consequently, Slik et al relates to a licence to download bodies of data and a licence to view selected elements of data, rather than to the licensed reproduction of software products. Further, the supply of datasets is tied to the client computer platform, and the licence exchanges take place between a central “authorising computer” and the “client computer”, and as stated in column 4, lines 33-36 “release codes for decrypting the selected dataset are generated in a manner which renders them computer-dependent”. It is clear that the dataset which is “released” by the licensing process does not, and is not intended to, become a saleable physical media item nor even an item available in the “retail environment” of a shop or store.

Thus, Slik et al lacks the local mass store and the point of sale unit for software products including electronically readable media, as well as the local media generator for storing customer selected information on such electronically readable media, as recited in claim 26. The remaining references do not remedy the deficiencies in the Slik teachings.

For example, Grundy concerns an arrangement for controlling the distribution of information, in which a user of computer software becomes the primary agent of manufacture and distribution of the software, a processor 10 of the user being coupled to a memory device 11 onto which an informational product 14 is loaded from a secondary storage device 13, such as a

disc, for this purpose. The processor 10 accesses a central database 112 by way of a modem arrangement 18, 19 and a second processor 15, in order to determine its level of access to the informational product 14, i.e., the functional mode of the informational product 14 available to the user. To obtain full access, the user must execute a registration process involving obtaining a registration code through payment of a fee.

More especially, Grundy refers to a system “to control the use of an ‘informational product’” through a three-tier control system. The passage in column 7, lines 24 to 35, likens the ‘informational product’ to data, for example a software product or database. What Grundy calls manufacturing is actually recasting/re-imaging the informational product for the purpose of controlling its use. As set out in the abstract, the first tier “...generates a registration code for the user...”, “...being a function of the first processor”. The second tier “changes the operational mode of the informational product.”, “...also stores a user record in the informational product”. The third tier or manufacture module determines the operational mode “as a function of the operational mode stored in the user record [created by the second module]...”, “and the identity of the processor on which the third module is executed”. The “third module returns to the informational product the user code”. Such a system is not strictly a licensing system but rather a copy protection solution.

The Grundy system thus not only requires a client computer to connect to a “Central Authority” computer but also makes use of information obtained directly from the client computer. The informational product purchased by the client/customer is never a full working version of the software -- even for backup purposes -- which creates an unwelcome dependence of the client/consumer on the “Central Authority” for all time.

Richardson is also concerned with a registration system allowing full access to software on media, such as a CD, if and only if an appropriate licensing procedure has been followed. Richardson is similar to Grundy in that it establishes a “use mode on a platform” and requires registration data to be passed back to “a platform under the control of the licensor or its agents...” (see column 3, line 45). In the Richardson patent, a portion of the original data is removed and replaced with a code portion containing data and an algorithm, and a copy of that algorithm is kept by the licensor platform. Thus, when the client calls to give information, a security key can be generated at the licensor end which will be appropriate to the registration key made at the client end (because it uses the same algorithm).

Hence, Richardson has no concept of direct marketing in a retail space where the customer/client would be availed of a complete product, on-demand.

Both Grundy and Richardson assume the production of data bearing media prior to any transaction, so that it is not possible to include any user selected information in/on the media as sold to the customer/client. Further, these two references also lack any disclosure of a point of sale unit for software products, and a local media generator.

By contrast, the arrangement of claim 26, for example, is designed for a Retail Store environment, in which the customer/client chooses a product (which does not yet exist in material form), and pays for it (by whatever means including via the Internet though more usually in-store by cash or credit card). The production process can only be initiated by verified staff and then can only proceed after payment. The customer/client receives the complete and packaged product after a few minutes of waiting and the process does not even require the customer/client to have a computer platform at all – after all, he/she may be buying the product to legitimately pass on to someone else, e.g., as a present for a friend or as a teaching aid for a

teacher for a school. If the licensor or publisher of data chooses to use a protection scheme of any sort within the data product as supplied in this manner, this is not relevant to arrangement of claim 26. The claimed arrangement simply “faithfully” reproduces the product supplied in its entirety.

In view of the foregoing, it is believed that independent claim 26 and its dependent claims are therefore patentably distinguished from the disclosures of the cited references, taken either alone or in combination. For similar reasons, claim 50 and its dependent claims are also believed to be patentably distinguished from the disclosures of the cited references, taken either alone or in combination.

CONCLUSION

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 4267-4000.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4267-4000.

Respectfully submitted,
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